

THE HON'BLE Mr. JUSTICE GODA RAGHURAM

THURSDAY, THE 23rd DAY OF FEBRUARY, 2006

W.P.No. 3342 of 2006

Between:-

Toddy Tappers Co-operative Society, Group Koheer rep., by its President K.R.
Krishna Goud, r/o Koheer, Medak district.

--Petitioner

And

The Prohibition & Excise Superintendent, Sangareddy, Medak district and another.

--Respondents

THE HON'BLE MR. JUSTICE GODA RAGHURAM

W.P.No. 3342 of 2006

Oral order:-

Heard Sri E. Manohar, learned senior counsel appearing for Sri. P. Kamalakar, learned counsel for the petitioner and the learned Government Pleader for Excise.

The petitioner is a Toddy Tappers Co-operative Society, Koheer group, Koheer, Medak district (for short 'the Society') which assails the proceedings dated 08-02-2006 issued by the 1st respondent suspending the licence (s) of the Society bearing Nos. 21, 22 dated 19-04-2002 and the Toddy Depot licence No.2 dated 19-04-2002 issued for the period from 19-04-2002 to 31-03-2007, pending inquiry.

On 28-12-2005 the Task Force Party, while conducting a route watch, found a lorry coming from Mardi village filled with plastic crates containing toddy bottles. On inquiry, the driver and the other passenger in the lorry revealed their names and stated to the watch party that the toddy was supplied from Kohir toddy depot to 14 unlicensed toddy shops illegally and on a daily basis. The Watch Party also apprehended that the toddy was adulterated with Chloral Hydrate. The drawn samples were sent for analysis. The analysis report dated 06-01-2006 revealed that the toddy in the lorry, seized on 28-12-2005 was not adulterated either with Chloral Hydrate or Diazepam.

Alleging illegal transportation and supply of toddy to unlicensed vendors and adulteration of toddy with Chloral Hydrate, a show cause notice dated 10-01-2006 was issued by the 1st respondent to the Society proposing substantive suspension

of the license. The petitioner submitted an explanation dated 31-01-2006 stating that he had not sold any toddy to unlicensed shops, but had sold 3050 liters of surplus toddy to one G. Anthaiah, a TFT Licensee of the Gurujuwada village of Kohir Mandal on 28-12-2005; and that the sale of such surplus toddy by a Society is within the authority of a licensee. The allegation of adulteration of toddy with Chloral Hydrate was also denied.

After receipt of the explanation dated 31-01-2006 from the petitioner, the 1st respondent passed the impugned order dated 08-02-2006. The 1st respondent, in the order impugned, records that an explanation was submitted by the petitioner to the show cause notice earlier issued, but fails to record any rational reason as to why the explanation submitted by the petitioner is not convincing. He merely records that as per the toddy policy 2004-05 a licensee can sell toddy to other licensees within 50 K.Ms., but the licensee (presumably the petitioner) is selling toddy to other 14 unlicensed shops. After recording the above, the 1st respondent records that the explanation submitted by the petitioner is not convincing and that he should be deemed to have “committed offence” under Section 34 (a) of the A.P. Excise Act, 1968; and then proceeds to record that in order to prevent the licensee (s) from further indulging such offences, the license (s) of the TCS, Kohir (licences bearing Nos. 21, 22 dated 19-04-2002) and Toddy Depot License No.2 dated 19-04-2002, are suspended pending further inquiry.

In the extravagantly structured order of the 1st respondent, there is nevertheless discernable a core of satisfaction that there exists some material (in the form of confession of the Driver and the Passenger of the lorry) as to the toddy being sold to unlicensed persons, as against the explanation of the petitioner that he has sold 3050 liters of toddy to one G. Anthaiah and within permissible limits. The impugned order of suspension, pending inquiry, though comes about two months after the detection of transport of the toddy on 28-12-2005, in the considered view of this court, ought not to be interfered with as the very trade in alcoholic beverages is a pernicious trade damaging to human health and the State must be given a wide latitude to effectively regulate the trade within the terms of license issued. The judgment of a Full Bench of this Court in TAPPERS CO-OP. SOCIETY MADDUR Vs. SUPDT. OF EXCISE (FB) (1) also supports the wide margin of latitude permitted to the State though on judicious consideration of the relevant facts and

circumstances. The policy underlying the prohibition of transport or sale of surplus toddy beyond 50 K.Ms., from the licensed premises is perhaps to ensure effective monitoring of the sale and distribution of toddy. Such effective monitoring policies in respect of an inherently pernicious trade would be imperilled, if an effective regulatory mechanism were interdicted by this court.

For the aforesaid reasons, this court is not inclined to interfere with the impugned order dated 08-02-2006. As the process of inquiry into the incident dated 28-12-2005 is already well under way and the explanation of the petitioner has been submitted on 31-01-2006 and the adulteration with Chloral Hydrate and Diazepam has not been found, qua the Chemical Analysis Report dated 06-01-2006, the only limited question and aspect that requires to be considered by the 1st respondent is as regards the legitimacy of the sale and transport of what the petitioner asserts is surplus toddy available with it and within the terms of the licence issued to the petitioner. The 1st respondent is therefore directed to conclude the inquiry into the allegations surviving against the petitioner, expeditiously and in any event within a period of two weeks from the date of receipt of a copy of this order. The 1st respondent shall afford an opportunity to the petitioner to participate in the inquiry so however that the petitioner shall not protract the proceedings beyond the two week's time stipulated above. A reasoned decision shall be recorded by the 1st respondent and communicated to the petitioner within the aforesaid time.

The writ petition is disposed of with the above observations. No costs.

GODA RAGHURAM, J

Date: 23-02-2006

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